

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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MANPOWER INC OF CEDAR RAPIDS
1220 INDUSTRIAL AVE
HIAWATHA IA 52233-1155

Appeal Number: 06A-UI-03725-LT
OC: 12-25-05 R: 02
Claimant: Appellant (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the March 23, 2006, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on April 20, 2006. Claimant participated with Randy Hansen of Traer Manufacturing. Employer participated through Janet Kadlec.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant remains on active status with Manpower. She was employed as a full-time temporary assembler at Traer Manufacturing through February 10, 2006, when she became a floater, and reports to work as needed since she said she wanted to go to school, and both Manpower and Traer Manufacturer agreed to reduce her hours. Shortly thereafter, employer told her there

were too many complaints from other employees so she became a floater on February 10 to fill in for absences as needed but Manpower did not contact her to fill in and claimant did not contact Manpower about floater work. Claimant completed school on March 10, 2006, and contacted employer for reassignment on March 14. Meg said she would contact Randy Hansen at Traer Manufacturing to see if there was an opening. Although Hansen told claimant Manpower did not contact him, claimant did not call Manpower back to find out her employment status.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

871 IAC 24.22(2)i(1), (3) provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market....

i. On-call workers.

(1) Substitute workers (i.e., post office clerks, railroad extra board workers), who hold themselves available for one employer and who do not accept other work, are not available for work within the meaning of the law and are not eligible for benefits.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code section 96.19(38)"a" and "b." An individual who is willing to accept only on-call work is not considered to be available for work.

Because claimant removed herself from her regular employment hours to attend school such that employer had only on-call or as needed work available, she is not considered to be unemployed within the meaning of the law. When an individual agrees to work on-call, the implied agreement is that they will only work when work is available and that work will not be regularly available. Thus, the diminution in hours was initiated by claimant so she could attend school. Accordingly, benefits are denied.

DECISION:

The March 23, 2006, reference 02, decision is modified. The claimant did not quit her job but is not considered unemployed because of her voluntary on-call employment status. Thus, claimant remains ineligible for benefits but does not have to requalify for benefits by earning ten times her weekly benefit amount. Benefits are denied.

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